

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1852 of 2000

to

FIRST APPEAL No 1856 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

BACHUBHAI BHAGUBHAI

Appearance:

MR ND GOHIL, AGP for Appellants
MR VIMAL M PATEL for Respondent

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE M.C.PATEL

Date of decision: 27/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Notice for summary disposal was issued in the aforesaid appeals returnable today. Mr. Vimal M. Patel appears for the respondents-original claimants. Appeals admitted.

2. The main controversy at this stage of the matter is as regards the question of limitation, and the maintainability of the references under section 18 of the Land Acquisition Act before the Reference Court.

3. We find that no contention as to the question of limitation and/or the maintainability of the references in question was raised by way of a written statement of the present appellants before the Reference Court. Apparently for this reason the Reference Court did not raise any issue pertaining to the limitation. However, the Reference Court has dealt with the matter on the basis of the submissions made before it.

4. In our opinion, the question of limitation as to the filing of the references under section 18 of the Act, and consequently the maintainability of those references is in issue which goes to the root of the matter. It also affects the jurisdiction of the Reference Court and for this reason also we are not inclined to disregard this contention raised in the present appeals. However, we find that the judgement and awards in the present group of appeals have dealt with the matter very casually. The Reference Court has noted in its judgement entirely on the basis of submissions made before it, and without reference to any evidence on record, that notices under section 12(2) of the Act were served upon the original claimants on 9th September 1992 and therefore the limitation would have been expired on 21st October 1992, whereas the references have been filed on 5th January 1993. If these facts were established by appropriate evidence on record, the contentions raised by the State would have considerable substance, but not otherwise.

5. At this stage of the present appeal we find that we are handicapped by appropriate evidence on record on which this specific issue can be discussed or any finding given thereon.

6. We, therefore, consider it appropriate to remand this matter back to the Reference Court under Order 41, Rule 25, CPC. We order accordingly. The Reference Court shall frame the necessary issue pertaining to limitation and/or maintainability of the reference applications, and permit the concerned parties to lead such evidence as they may choose to do on this issue. The Reference Court shall thereafter appreciate such additional evidence, record findings thereon, and return the same to this Court. This exercise shall be completed as expeditiously as possible and in any case not later than 30th April 2001.

7. The Registry is directed to return the record and proceedings to the District Court expeditiously, if it has been called for and received here. Direct service is permitted.
